

REMARKS

Reconsideration of this application in light of the amendments and following remarks is respectfully requested.

Status of the Claims

Claims 1, 3, 5, 13, and 15-19 are pending in this application. Claims 11 and 14 have been cancelled without prejudice or disclaimer of the subject matter contained therein. Claims 1 and 17 have been amended. No new matter has been added.

Claim Rejections Under 35 U.S.C. § 103

Claims 1, 3, 5, 11 and 13-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,891,126 to Osborn, III et al. (hereinafter "Osborn").

Claims 11 and 14 have been cancelled thereby rendering this rejection moot with respect to those claims.

In view of the Examiner's rejection, Applicants have amended claim 1 to incorporate the features of claim 11 and 14. Additionally, claim 1 has been amended to recite "the absorbent body is formed into a sheet-like member having a thickness of 3 to 5 mm and comprising at least one of pulp, chemical pulp, rayon, acetate, natural cotton, super absorbent polymer, fibrous super absorbent polymer, and synthetic fiber." Support for this amendment can be found in the Specification at ¶ 125. Thus, when the interlabial pad of claim 1 is folded during use, the thickness of the protrusion is 6 to 10 mm. Thus, the bending elements of the pad allow the 6 mm to 10 mm thick protrusion to bend and conform for comfort.

In contrast, Osborn discloses an absorbent portion “between about 2 mm and less than or equal to about 7 mm.” (Osborn, col. 10, lines 55-57). Osborn further discloses that the pad can include a plurality of slits to permit bending. (Osborn, col. 15, lines 19-20). However, Osborn’s thinner pad requires fewer pleats or bending elements to conform for comfort. Thus, Osborn does not need, nor does it disclose, the various bending elements of the claimed invention. The present invention provides a thicker absorbent, which requires precisely placed slits and bending elements, as recited by the claims, to ensure the pad retains its structure and comfort during use.

Claim 1 has further been amended to recite “a third bending element piece having an extended slit and positioned near the center line of the absorbent body and extending toward the peripheral edges of the absorbent body from the second axis at a specified angle,” as previously recited by claim 11. Claim 1 has also been amended to recite “the opposite side surface to a body of the interlabial pad comprises a mini sheet piece which is provided over one side part to another side part, wherein both side parts are substantially parallel to the first axis of the interlabial pad; and a finger insert hole is formed between the mini sheet piece and the opposite side surface to the body,” as previously recited by claim 14.

The Examiner acknowledges, with respect to previously presented claim 11, that “Osborn does not teach that said bending element piece extends in a V-shape towards the peripheral edges of the absorbent body from the second axis at a prescribed angle.” (Detailed Action, page 8, ¶ 3). However, the Examiner contends “applicant has not established sufficient criticality for such an arrangement.” The Examiner further contends that Osborne discloses a mini sheet piece which is provided over one side part 214 to another side part 24 . . . and a finger insert hole (Fig. 8) is formed between the mini sheet piece 24 and the opposite side surface 20B to the body.” (Detailed Action, page 9 ¶ 3).

Applicants submit that Osborn does not disclose a mini sheet nor does it disclose “a finger insert hole is formed between the mini sheet piece and the opposite side surface to the body,” as recited by claim 1. With reference to Figures 12 and 14, the finger hole 102 of claim 1

is formed between the mini sheet 100 and the opposite side surface to the body 26. The finger hole of Osborne, as identified by the Examiner, is between flexible extension 24 and the surface of interlabial device 20 that is opposite the body. (Detailed Action, page 9). However, as illustrated by Figure 8 of Osborne, this space is not a finger hole, but is merely an open space to allow the wearer of the device to grasp the lower portion 28 of the absorbent portion 22. The present invention of claim 1 can be put in place with a “finger contacting the side of the interlabial pad facing the clothing, in the vicinity of the lengthwise center line.” (Specification, ¶ 106).

Additionally, as acknowledged by the Examiner “Osborn does not teach that said bending element piece extends in a V-shape towards the peripheral edges of the absorbent body from the second axis at a prescribed angle.” (Detailed Action, page 8, ¶ 3). The configuration of the V-shaped bending element in conjunction with the finger slot provides that “the front side of the interlabial pad can change in form easily so as not to change the relative position of the finger and the interlabial pad in pulling out the finger.” (Specification, ¶ 108). Osborne’s slits and open space for grasping the lower portion of the pad does not provide this advantage of the claimed invention.

For at least the reasons discussed above, Osborne does not disclose or suggest all the features of claim 1. Therefore, claim 1 is not obvious over Osborne.

Claims 3, 5, 13, and 15-16 depend from claim 1. Thus, at least by virtue of their dependency from claim 1, claims 3, 5, 13, and 15-16 are not obvious over Osborne.

Claim 17 has been amended to similarly recite the features of claim 1 discussed above. Therefore, for at least the reasons discussed above, claim 17 is not obvious over Osborne.

Claims 18 and 9 depend from claim 17. Thus, at least by virtue of their dependency from claim 17, claims 18 and 19 are not obvious over Osborne.

Therefore, for at least the reasons discussed above, Applicants respectfully request reconsideration and withdrawal of this rejection.

CONCLUSION

Each and every point raised in the Final Office Action dated September 8, 2008 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 1, 3, 5, 13, and 15-19 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: December 8, 2008

Respectfully submitted,

By 

Kevin J. Beach

Registration No.: 60,422

DARBY & DARBY P.C.

P.O. Box 770

Church Street Station

New York, New York 10008-0770

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant